REMARKS/ARGUMENTS

Status of the Claims

Claims 1-2 & 4-20 are pending in this application.

Claims 1-2, 4-13 & 15-20 are rejected.

Claim 14 is objected to.

The Abstract of the Disclosure was objected to for containing more than 150 words. Applicants have amended the Abstract to contain less than 150 words, the amendments are straightforward and a further explanation is not necessary. In addition, claim 1 has been amended. Support for these amendments is found throughout the specification, claims and drawings as originally filed.

The examiner has rejected claims 1, 4, 5, 10 and 11 under 35 U.S.C. 103(a) as being unpatentable over Rayment '298 in view of "NVH Reduction Trends" (http://www.sae.org/automag/nvh_reduction/03.htm).

United States Patent No. 5,551,298 to Rayment discloses an apparatus for identifying vibration induced noise in a vehicle. Specifically, an operator uses an input/display module 24 to record when a vibration-induced noise begins and ends. The operator moves an indicator line across the screen of the input/display module 24, when the vibration-induced noise is heard, the operator presses a button to fix the position of the indicator line. (Col. 3, ll. 33-37.) Once the first line is fixed, the operator continues to listen to the vibration-induced noise, i.e., rattle or squeak being monitored. When the vibration induced noise ceases, the operator pushes the button again to fix the position of a second line in a similar manner. (Col. 3, ll. 47-51.) The apparatus does not measure the sound level emitted from the product. Instead, the operator subjectively determines when the noise starts and when it stops. (Col. 2, ll. 17-21.)

"NVH Reduction Trends" (http://www.sae.org/automag/nvh_reduction/03.htm), as best understood, indicates that percentile statistical measures N10 and N50 are used to describe a set of noise measurements as a single value.

Contrary to the position taken by the examiner, Rayment '298 does not to teach measuring the sound emitted from the product. Rayment '298 teaches the use of an apparatus wherein an operator listens and subjectively indicates when a vibration induced noise first occurs and when it ceases. The apparatus disclosed in Rayment '298 does not measure the sound level emitted from the product, it depends on an operator to indicate, by pressing a key, when a vibration-induced noise is first heard and when the noise being monitored ceases. It does not, as proposed by the examiner established a threshold metric, nor does it generate an objective metric based on measured sound including acquiring sound data for a defined time period. To the contrary, Rayment '298 is subjective, not objective, as it requires an operator to determine when the noise starts and when it stops.

The examiner citation to the Summary of the Invention of Rayment '298; specifically, col. 1, line 45 to col. 2, line 11 does not support the examiner's contention that Rayment '298 teaches "establishing a threshold metric generating an objective metric based on the measured sound includes the steps of acquiring sound data for a defined time period; ..." Rayment '298 discloses comparing the frequency at which the vibration induced noise occurs with a set of stored data. It does not disclose measuring the sound level emitted from the product as set forth in claim 1. Further, it does not disclose measuring the level of the vibration induced sound and computing an objective metric as set forth in claim 10. In sum, Rayment '298 does not disclose measuring the

level of the sound or vibration induced noise, only the vibration frequencies at which the noise or sound starts and stops.

Further, there is no teaching or suggestion to combine Rayment '298 and "NVH Reduction Trends." The examiner argues that it would have been obvious to incorporate the teachings of "NVH Reduction Trends" into Raymond's invention "because it would provide sound data measurements N10 loudness scale." The examiner offers no support for this position and does not indicate any teaching or suggestion from either reference that would teach applicants invention. "NVH Reduction Trends" simply states that "[p]ercentile statistical measures N10 and N50 are used to describe a set of noise measurements as a single value." Rayment '298 is concerned with when the sound starts and when it ends, along with the vibration frequencies that these points occur, not the level of the sound. "NVH Reduction Trends" discloses statistical measurements that describe a set of noise measurements while Rayment '298 deals with two discreet points, nothing in either reference suggests a combination and even if the references were combined as proposed, they would not teach or suggest applicants invention wherein an objective metric is generated based on the measured sound level. Accordingly, applicants submit that independent claims 1 and 10 and the claims dependent therefrom are allowable as written.

The examiner has rejected claims 2, 6-8, 12, 13 and 15-20 under 35 U.S.C. 103(a) as being unpatentable over Rayment '298 in view of "NVH Reduction Trends" and Hamada et al. U.S. 2004/0015251. Claims 2, 6-8, 12, 13, and 15-17 are allowable for the reasons set forth above. Regarding claims 18-20, claim 18 includes as an element the step of measuring and recording the sound level emitted from the vehicle during operation and computing an objective metric based on the recorded sound level.

Once again, nothing in Rayment '298, nor the combination of Rayment '298 with "NVH Reduction Trends" teaches the use of recording the sound level emitted during vehicle operation to compute an objective metric. Adding Hamada et al, as a reference does not change this. Accordingly, applicants submit that claim 18 and the claims dependent therefrom are allowable as written.

It is respectfully submitted that in view of the above amendments and remarks the claims are patentably distinguishable because the cited patents, whether taken alone or in combination, do not teach, suggest or render obvious, the present invention. Therefore, applicant submits that the pending claims are properly allowable, which allowance is respectfully requested.

The Examiner is invited to telephone the applicant's undersigned attorney at (313) 337-1069 if any unresolved matters remain.

Please charge any cost incurred in the filing of this amendment, along with any other costs, to Deposit Account No. 06-1510. If there are insufficient funds in this account, please charge the fees to Deposit Account No. 06-1505.

Respectfully submitted,

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